

Applicant: Jeffery W. Augustine
Application No. 10/071,327
Filed: 02/07/2002
Attorney Docket No. 1037

REMARKS

Claims 1-23 are pending in the captioned application.

Claims 13-22 are allowed.

Claims 1, 3, 9 and 23 are rejected.

Claims 2, 4-8 and 10-12 are objected to.

Claims 1, 2 and 23 are currently amended.

Claim rejections under 35 U.S.C. 102

Claims 1 and 3 were rejected under 35 U.S.C. 102(b) as being anticipated by Corbett, U.S. Pat. No. 4,687,103.

It is respectfully submitted that Corbett fails to anticipate amended claim 1, and claim 3 as dependent therefrom, under 35 U.S.C. 102(b), as follows.

Reference is made to MPEP 2131, which states, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference". *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

It is respectfully submitted that Corbett fails to anticipate amended claim 1, and claim 3 as dependent therefrom, since Corbett fails to describe "An article container and display device...wherein said case/stand defines a container configuration for concealing the article when said first case unit removably engages said second case unit and said display frame is contained in and enclosed by said

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first case unit and said second case unit; wherein said case/stand defines a display stand configuration for displaying the article when said first case unit and said second case unit are disengaged from each other and placed in adjacent relationship to each other...”, as set forth in amended claim 1.

In contrast, the Corbett patent discloses a jewelry display device which includes a first case unit (20), a second case unit (12-18) and a display frame (28). From a consideration of Figure 1 in the Corbett patent, it is apparent that the Corbett jewelry display device is not capable of deployment in a container configuration for concealing an article when the case units engage each other. Rather, it is respectfully submitted that the second case unit (12-18) is only capable of engaging the first case unit (20) in a display stand configuration, due to the rectangular display opening in the second case unit (12-18).

Accordingly, it is respectfully submitted that the Corbett patent fails to anticipate amended claim 1 and claim 3 as dependent therefrom under 35 U.S.C. 102(b), since the Corbett patent fails to set forth “each and every element” of amended claim 1, a requirement for anticipation as set forth by the Federal Circuit in *Verdegaal Bros. v. Union Oil Co. of California*.

It is therefore respectfully submitted that the limitations of amended claim 1 overcome the basis for the rejection of claims 1 and 3 under 35 U.S.C. 102(b). Reconsideration and allowance of claims 1 and 3 is therefore respectfully solicited.

Claim rejections under 35 U.S.C. 103(a)

Claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over Corbett (4,687,103)

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in view of Official Notice and Riley, U.S. pat. no. 6,508,495.

It is respectfully submitted that Corbett fails to render claim 9 obvious within the contemplation of 35 U.S.C. 103(a), since Corbett fails to teach or suggest all of the limitations of claim 9, as follows.

As claim 9 depends from amended claim 1, it is respectfully submitted that Corbett fails to teach or suggest "An article container and display device...wherein said case/stand defines a container configuration for concealing the article when said first case unit removably engages said second case unit and said display frame is contained in and enclosed by said first case unit and said second case unit; wherein said case/stand defines a display stand configuration for displaying the article when said first case unit and said second case unit are disengaged from each other and placed in adjacent relationship to each other...", as set forth in amended claim 1.

As set forth herein above, the second case unit (12-18) of the Corbett jewelry display device is not capable of engaging the first case unit (20) in a container configuration for concealing an article held in the display frame (28) when the case units engage each other, but is capable of engaging the first case unit (20) only in a display stand configuration, due to the rectangular display opening in the second case unit (12-18). The Corbett patent fails to teach or suggest modification of the first case unit (20) and the second case unit (12-18) in such a manner that the case units can engage each other to define a container configuration for concealing an article contained in a display frame and containing and enclosing the display frame and can disengage and be placed in adjacent relationship to each other to define a display stand configuration, as set forth in claim 9 as dependent from

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amended claim 1.

Accordingly, it is respectfully submitted that the Corbett patent fails to render claim 9, as dependent from amended claim 1, obvious within the contemplation of 35 U.S.C. 103(a). Reconsideration and allowance of claim 9 is therefore respectfully solicited.

Claim 23 was rejected under 35 U.S.C. 103(a) as being unpatentable over Corbett (4,687,103) in view of Official Notice and Riley (6,508,495).

It is respectfully submitted that Corbett in view of Official Notice and Riley fails to render amended claim 23 obvious within the contemplation of 35 U.S.C. 103(a), since Corbett in view of Official Notice and Riley fails to teach or suggest all of the limitations of amended claim 23, as follows.

It is respectfully submitted that Corbett in view of Official Notice and Riley fails to teach or suggest "An article container and display device...wherein said case/stand defines a container configuration for concealing the article when said first case unit removably engages said second case unit and said display frame is contained in and enclosed by said first case unit and said second case unit; wherein said case/stand defines a display stand configuration for displaying the article when said first case unit and said second case unit are disengaged from each other and placed in adjacent relationship to each other...", as set forth in amended claim 23.

It is respectfully submitted that Corbett in view of Official Notice and Riley fails to teach or suggest modification of the first case unit (20) and the second case unit (12-18) of the Corbett jewelry

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display device in such a manner that the case units can engage each other to define a container configuration for concealing an article held by a display frame and containing and enclosing a display frame and can disengage and be placed in adjacent relationship to each other to define a display stand configuration, as set forth in amended claim 23.

Accordingly, it is respectfully submitted that Corbett in view of Official Notice and Riley fails to render amended claim 23 obvious within the contemplation of 35 U.S.C. 103(a). Reconsideration and allowance of amended claim 23 is therefore respectfully solicited.

Allowable subject matter

Claims 13-22 stand allowed.

Claims 2, 4-8 and 10-12 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

It will be noted that claim 2, formerly dependent from claim 1, has been re-written in independent form to include all of the limitations of claim 1. Therefore, it is respectfully submitted that claim 2, as rewritten in independent form to include the limitations of claim 1, is in condition for allowance according to the indication of allowable subject matter set forth in the Office action. Reconsideration and allowance of claim 2 is therefore respectfully solicited.

It will be noted that claims 4-8 and 10-12 depend, either directly or indirectly, from amended

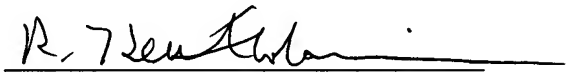
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claim 1 and that claim 1 has been amended to overcome the basis for the rejection of claim 1 under 35 U.S.C. 102(b), as set forth herein above. Therefore, it is respectfully submitted that claims 4-8 and 10-12, as dependent from amended claim 1, are now in condition for allowance. Reconsideration and allowance of claims 4-8 and 10-12 is therefore respectfully solicited.

Conclusion

Every effort has been made to amend applicant's claims in order to define his invention in the scope to which it is entitled. Accordingly, reconsideration and allowance of claims 1, 3, 9 and 23 is respectfully solicited.

Respectfully submitted,


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